

EXHIBIT B

1 IN THE UNITED STATES DISTRICT COURT
2 FOR THE NORTHERN DISTRICT OF OHIO
3 EASTERN DIVISION

4
5 -----x

6 IN RE: NATIONAL PRESCRIPTION) MDL No. 2804
7 LITIGATION) Case No. 17-md-2804
8 This document relates to:) Hon. Dan A. Polster
9 All Cases)

10 -----x

11 HIGHLY CONFIDENTIAL - SUBJECT TO FURTHER
 CONFIDENTIALITY REVIEW

12 V O L U M E I I

13 VIDEOTAPED DEPOSITION OF RICHARD SACKLER, M.D.

14 STAMFORD, CONNECTICUT

15 FRIDAY, MARCH 8, 2019

16 9:37 A.M.

17

18

19

20

21

22

23

24 Reported by: Leslie A. Todd

1 finished with that.

2 A Oh.

3 Q Let me start again.

4 Can we agree that the potency
5 relationship between morphine and oxycodone is
6 believed -- generally accepted to be a 2-to-1
7 ratio such that oxycodone is twice as powerful as
8 morphine?

9 A We believe, and I still believe, that it
10 is approximately, on average, twice as potent as
11 morphine.

12 Q And you and your company were in the
13 year 1996 engaged in a scheme to persuade
14 physicians that indeed morphine was more powerful
15 than oxycodone. True?

16 MR. CHEFFO: Object to form.

17 THE WITNESS: Untrue.

18 MR. HANLY: Let's mark as the next
19 exhibit --

20 THE WITNESS: I wish I could ask you
21 questions.

22 MR. BERNICK: No, no, no.

23 THE WITNESS: I'm trying to lighten --

24 MR. BERNICK: You can ask him all you

1 want after the deposition is over.

2 THE WITNESS: -- to lighten the -- no, I
3 wasn't going to --

4 MR. BERNICK: No, no, no, let's save it.

5 THE WITNESS: Okay. I would be happy to
6 do that if you want.

7 (Sackler Exhibit No. 58 was marked
8 for identification.)

9 BY MR. HANLY:

10 Q All right. Now, Doctor, I've placed
11 before you a two-page document that appears to be
12 an e-mail from you at the top. Do you see that?

13 A Yes.

14 Q To Michael Friedman. And below that is
15 a rather long e-mail from Michael Friedman.

16 A Yes.

17 Q Do you see that?

18 A Yes.

19 Q Okay. Now, directing your attention to
20 the second paragraph in the Michael Friedman
21 e-mail, it reads as follows -- are you on that --
22 are you with me there?

23 A Yes.

24 Q Do you see the words "We are well

1 aware"?

2 A Yep.

3 Q Okay. So there it reads: "We are well
4 aware of the view, held by many physicians, that
5 oxycodone is weaker than morphine."

6 Did I read that correctly?

7 A You did.

8 Q Now, you and I can agree, can we not,
9 Doctor, that that statement, "oxycodone is weaker
10 than morphine," that part of the statement is
11 scientifically false? We just -- we just agreed
12 on that, right?

13 MR. BERNICK: Objection to the form of
14 the question.

15 BY MR. HANLY:

16 Q That oxycodone is in fact twice as
17 powerful as morphine. Right?

18 A It is -- of course, we agree that when
19 you switch a patient from morphine to oxycodone,
20 you will cut the dose milligram in half.

21 I didn't read carefully enough, because
22 when he said weaker, I was thinking of the
23 associations and the profile -- relative profiles
24 of morphine and oxycodone. And I wish I had made

1 for the high dose patient."

2 Did I read that correctly?

3 A Yes. You read what is -- what is
4 written on this page correctly.

5 Q Right. And then in the next paragraph,
6 the last full paragraph on that page, the second
7 sentence reads: "Doctors use the drug in
8 non-malignant pain because it is effective and
9 the," quote, "'personality,'" unquote, "of
10 OxyContin is less threatening to them, and their
11 patients, than that of the morphine alternatives."

12 Did I read that correctly?

13 A You did.

14 Q And then further down in that paragraph,
15 do you see a sentence that begins "While we
16 might"?

17 A Yes.

18 Q So that reads: "While we might wish to
19 see more of this product sold for cancer pain, it
20 would be extremely dangerous, at this early stage
21 in the life of this product, to tamper with this,"
22 quote, "'personality,'" unquote, "to make
23 physicians think the drug is stronger or equal to
24 morphine."

1 A Yes --

2 Q Right?

3 A -- I see that. No, I don't agree with
4 it, but --

5 Q Well, we'll get to that, Doctor.

6 A Okay.

7 Q And the last sentence on that paragraph
8 says: "We are better off expanding use of
9 OxyContin in the non-malignant pain states and
10 waiting for hydromorphone OD in 1999 to relaunch
11 into cancers -- cancer pain."

12 Did I read that correctly?

13 A I believe you did.

14 Q Right. And then if you turn to the next
15 page, top of the page, it reads, does it not:
16 "For the time being I" -- that's Michael
17 Friedman -- "do not plan to try to change the,"
18 quote, "'personality,'" unquote, "of OxyContin.
19 We will continue to FOCUS," all caps, "on
20 expanding the non-malignant pain usage. In this
21 group of patients, morphine is not an alternative
22 and the price is correct."

23 Did I read that correctly?

24 A You read what is here on the page.

1 Q Right. And you already told me you
2 already looked at your response, which is at the
3 top of the first page: "I agree with you. Is
4 there general agreement or are there some
5 holdouts?"

6 That was your response in 1997 to this
7 e-mail, true?

8 A But you're misinterpreting it.

9 Q Well, I didn't ask you about --

10 A Yes, that is -- okay, fine.

11 Q -- my intention.

12 A Fine. That are the words I used.

13 Q Right.

14 A Yes.

15 Q And that -- that's what you told
16 Mr. Friedman -- by the way, was Mr. Friedman the
17 CEO in 1997?

18 A No.

19 Q He was in what position at Purdue
20 Pharma?

21 A He was head of marketing and sales, I
22 believe, at that point. And also head of
23 corporate development.

24 Q Okay. Let's mark as the next exhibit --

1 (Sackler Exhibit No. 59 was marked
2 for identification.)

3 BY MR. HANLY:

4 Q -- another e-mail chain.

5 I'm finished with that, Doctor. Thank
6 you very much.

7 MR. HANLY: David, would you put the
8 exhibit before the witness?

9 MR. BERNICK: Oh, yes. Sorry.

10 BY MR. HANLY:

11 Q Now, here is an e-mail chain a little
12 later in 1997, June 12th, between you, Dr. Richard
13 Sackler, and Michael Friedman.

14 Do you see that, Doctor?

15 A Yes.

16 Q Okay. Now, the big e-mail on that page
17 appears to be written by someone named Michael
18 Cullen.

19 Do you see that? Do you see the top --

20 A Yes.

21 Q -- of the big e-mail? Okay.

22 And that e-mail reads or in part reads:

23 "In recent team meetings, we have discussed the
24 issue that OxyContin is perceived by some

1 physicians, particularly oncologists, as not being
2 as strong as MS Contin."

3 By the way, MS Contin is morphine
4 sulfate continuous, correct?

5 A Yes.

6 Q "Although this perception has had some
7 effect with patients switching to MS Contin" --
8 sorry -- "physicians switching to MS Contin with
9 more severe cancer pain patients, it has actually
10 had a positive effect with physicians' use in
11 non-cancer pain."

12 Continuing: "Since oxycodone is
13 perceived" --

14 A Just a quick question. I want to see
15 the sequence here. 5/28. 6/12. Okay.

16 Q So a month later, right?

17 A Whatever. Two weeks. I don't know. I
18 didn't --

19 Q Sorry, a few days.

20 A I didn't calculate it. I saw it was
21 meaningfully later, so it was in sequence, yes.

22 Q Okay. So I read the first paragraph of
23 Cullen's e-mail.

24 A Yes.

1 Q I want to continue, please. It reads:
2 "Since oxycodone is perceived as being a 'weaker'
3 opioid than morphine," -- "weaker" in
4 quotations -- "it has resulted -- resulted in
5 OxyContin being used much earlier for non-cancer
6 pain. Physicians are positioning this product
7 where Percocet, hydrocodone and Tylenol with
8 codeine have been traditionally used."

9 Did I read that correctly?

10 A You did.

11 Q Okay. And then the next paragraph
12 reads: "Since the non-cancer pain market is much
13 greater than the cancer pain market, it is
14 important that we allow this product to be
15 positioned where it currently is in the
16 physician's mind. If we stress the," quote,
17 "'Power of OxyContin,'" unquote, "versus morphine,
18 it may help us in the smaller cancer pain market,
19 but hurt us in the larger potential non-cancer
20 pain market. Some physicians may start
21 positioning this product where it -- where
22 morphine is used and wait until pain is severe
23 before using it."

24 Did I read that correctly?

1 A Can I just -- I think you read it
2 correctly, but I'm not sure I am -- can -- are you
3 going to ask me what this means --

4 Q No.

5 A -- or not? You're just reading from the
6 e-mail. Okay.

7 Q Well, and I'm establishing, Doctor, am
8 I not, that you -- this was an e-mail chain that
9 you received and apparently are familiar with,
10 true?

11 MR. BERNICK: Objection to form. Move
12 to strike the prefatory statement.

13 THE WITNESS: I -- I'm not certain what
14 your purpose was or what you've done.

15 BY MR. HANLY:

16 Q Can you listen to my question, Doctor?

17 MR. BERNICK: I'm sorry. Please don't
18 interrupt him.

19 THE WITNESS: I'm sorry. I apologize if
20 I didn't listen to your question, so...

21 BY MR. HANLY:

22 Q Okay. So, my question is, did I read
23 that paragraph correctly? The paragraph that
24 begins "Since the non-cancer pain market is much

1 greater than the cancer pain," I read that into
2 the record.

3 A Yes. Okay.

4 Q Okay?

5 A I think you did, yes.

6 Q All right.

7 A I don't remember exactly the words you
8 used, but you haven't made a mistake yet. That's
9 fine.

10 Q And the second to last paragraph in that
11 big e-mail reads, does it not: "It is important
12 that we be careful not to change the perception of
13 physicians toward oxycodone when developing
14 promotional pieces, symposia, review articles,
15 studies, etc."

16 Did I read that correctly?

17 A Yes.

18 Q Promotional pieces, those are -- those
19 are marketing pieces, right?

20 A Yes. That --

21 Q Okay.

22 A -- conform to the package insert or
23 should always conform to it, I --

24 Q Should do so, correct?

1 with,'" unquote, "in cancer pain (instead of
2 Percocet, Vicodin, etc.) and" --

3 A Step -- step -- I'm sorry to interrupt
4 you, but that's step 2.

5 Q Yes.

6 A Okay.

7 Q If you'd let me ask the question,
8 Doctor --

9 A Certainly.

10 Q -- we can move quickly through this.

11 A I am sorry for the interruption.

12 Q I'm going to start again.

13 "Mike Cullen discussed in detail
14 Marketing's positioning of OxyContin. He
15 explained that we want to expand extensively in
16 the non-cancer market segment while promoting
17 OxyContin as," quote, "'the one to start with,'"
18 unquote, "in cancer pain (instead of Percocet,
19 Vicodin, etc.) and," quote, "'the one to stay
20 with,'" unquote, "through proper titration."

21 Next paragraph: "We can show that we
22 are as," quote, "'effective,'" unquote, "as
23 morphine, but do not want to say OxyContin is as,"
24 quote, "'powerful,'" unquote, "as morphine. Words

1 such as," quote, "'powerful,'" unquote, "may make
2 some people think the drug is dangerous and should
3 be reserved for the more severe pain. This could
4 have a negative effect in the much larger
5 non-cancer pain market. Mike reminded the team
6 that we should keep this positioning in mind as we
7 develop future marketing programs, symposia,
8 clinical study, manuscripts, and any other items
9 that discuss the use of OxyContin."

10 Did I read that correctly?

11 A You did.

12 Q And there's a reference there to
13 "marketing programs," right? Do you see that?

14 A I'm -- I'm looking for "marketing
15 programs."

16 Q Second to last sentence.

17 A Sentence?

18 Q Yes, sir.

19 A Okay. Thank you.

20 Q Or the last sentence on the second
21 paragraph. I --

22 A Oh, the last sentence.

23 Q Yes, sir.

24 A Okay. (Peruses document.) Okay.

1 Q All right. So I -- I read that all
2 correctly, did I not?

3 A I think you did.

4 Q Now, marketing -- the marketing
5 activities of Purdue Pharma LP, between the launch
6 in early 1996 over the next five years, was in
7 part an attempt to influence the prescribing
8 habits of physicians. True?

9 MR. BERNICK: Objection to form. Lack
10 of foundation.

11 THE WITNESS: To affect it. I think
12 that's a fair statement. It's not one I'm used
13 to, but I think that's fair.

14 BY MR. HANLY:

15 Q Because at the end of the day, Doctor,
16 sales of OxyContin are a function of the extent to
17 which a physician is willing to prescribe the
18 drug. True?

19 A To which he prescribes it.

20 Q True.

21 A Okay.

22 MR. HANLY: How much time have I got
23 left?

24 MR. BERNICK: 15.